IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 12876 of 2004

Between:

Mohd Basharathuddin Khan S/o. Khaja Moinuddin Khan
R/o.H.No.3-6-129, Aziz Gulshan Hyderguda, Hyderabad. Rep by its GPA Naseeruddin Khan
aged 36 years Occ.Business, R/o. H.No.3-6-129, Aziz Gulshan Hyderguda, Hyderabad A.P.

..... PETITIONER

AND

A.P.State Wakf Board Rep. by Chief Executive Officer
Wakf Building, Opp.Public Gardens, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an writ order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not issuing the certified copies as ultra vires, arbitrary, in constitutional and grant such other necessary relief and in the interest of justice.

Counsel for the Petitioner:MR.MOHD.ABDUL RAFI

Counsel for the Respondent : Mr. A.M. Qureshi, SC for Wakf Board

The Court made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.12876 OF 2004

ORAL ORDER :

Heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondent – A.P. State Wakf Board.

The petitioner claims to be the legal heir of one Sri Gulam Dastagir Saheb, who was the owner and possessor of lands situated in Sy.Nos.181, 182/2 of Kavadiguda, Sultanbagh, Hyderabad, which were donated and made a Wakf for the purpose of a mosque and graveyard. The petitioner states that he has succeeded to the said property and he has been looking after and managing the said mosque known as "Mosque Sultan Bagh" and graveyard. The case of the petitioner is that being the

person interested, he filed an application before the respondent - A.P. State Wakf Board on 26-04-2004 for issuance of certified copy of the proceedings of the self-styled Managing Committee of the Mosque bearing No.159/Hyd-VI/K/2003 for the purpose of seeking necessary redressal from the competent Court of law. However, the respondent Wakf Board issued a memo dated 15-05-2004 directing the petitioner to furnish certain clarifications which include his relationship with the institution and the reasons for obtaining the document. Accordingly, the petitioner has filed an affidavit along with genealogical table to establish his claim that he is the successor of Gulam Dastagir Saheb. In pursuance thereof, the respondent Wakf Board passed the impugned order dated 07-06-2004 stating that the petitioner cannot be recognized as the legal heir of the donor until and unless it is proved that he is the legal representative of Muthawalli following the due process of law and as such the question of furnishing the certified copy sought by him does not arise and therefore his request is rejected. Aggrieved by the same, this writ petition has been filed seeking a declaration that the action of the respondents is arbitrary and illegal.

I have heard the learned Counsel for the petitioner and the learned Standing Counsel for the respondent Wakf Board.

Though the learned Standing Counsel for the respondent disputed the claim of the petitioner that he is the successor of Sri Gulam Dastagir Saheb, it is conceded across the Bar that any person interested in the property of the Wakf Board is entitled to institute proceedings for the decision of a question relating to the wakf or wakf property. If that be so, even in the absence of any proof to establish the claim of the petitioner that he is the legal heir of the donor, the Wakf Board is bound to furnish the certified copy of the proceedings sought by the petitioner.

Accordingly, the impugned order dated 7-6-2004 is set aside and the Writ Petition is disposed of with a direction to the respondent Wakf Board to furnish the certified copy of the proceedings No. 159/Hyd-VI/K/2003 to the petitioner on payment of usual charges within two weeks from the date of receipt of this order. No costs.

31st August, 2004.

Gbs

To

1. The Chief Executive Officer,

   A.P.State Wakf Board, Wakf Building,

   Opp.Public Gardens, Hyderabad.

2. 2CD copies